

1 **§ 18.2-152.2. Definitions .**

2 For purposes of this article:

3 "Computer" means a device that accepts information in digital or similar form and manipulates it
4 for a result based on a sequence of instructions. Such term does not include simple calculators,
5 automated typewriters, facsimile machines or any other specialized computing devices that are
6 preprogrammed to perform a narrow range of functions with minimal end user or operator
7 intervention, are not independently programmable by the user, and are dedicated to a specific
8 task.

9 "Computer information" means information in any form that is obtained from or through the use
10 of a computer or that is in a form capable of being processed by a computer.

11 "Computer operation" means an operation that a computer is designed and built to perform.

12 "Computer services" means the use of a computer, including but not limited to, computer time,
13 data processing services, Internet services, electronic mail services, electronic message services,
14 or information or data stored in connection therewith.

15 "Computer software" or "computer program" means a set of statements or instructions to be used
16 directly or indirectly in a computer to bring about a certain result.

17 "Electronic mail service provider" (EMSP) means any person who (i) is an intermediary in
18 sending or receiving electronic mail and (ii) provides to end-users of electronic mail services the
19 ability to send or receive electronic mail.

20 "Financial instrument" includes, but is not limited to, any check, draft, warrant, money order,
21 note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction
22 authorization mechanism, marketable security, financial asset as that term is defined in § 8.8A-
23 102, or any computerized representation thereof.

24 The term "owner" shall include an owner or lessee of a computer or an owner, lessee, or licensee
25 of computer information, computer services, or computer software.

26 The term "person" shall have the same meaning as provided in § 1-13.19.

27 "Property" means anything of value, and includes any interest therein, including any benefit,
28 privilege, claim or right with respect to anything of value, whether real or personal, tangible or
29 intangible. "Property" includes, but is not limited to, computers, financial instruments, computer
30 information, computer software, and computer services.

31 A person is "without authority" when he knows or reasonably should know that he has no right
32 or permission or acts in a manner exceeding such right or permission.

33 **§ 18.2-152.3. Computer fraud.**

34 Any person who :

35 1. Obtains property or services by false pretenses;

36 2. Embezzles or commit larceny; or

37 3. Converts the property of another

38 through the use of a computer, is guilty of the crime of computer fraud.

39 If the value of the property or services obtained is \$200 or more, the crime of computer fraud
40 shall be punishable as a Class 5 felony. Where the value of the property or services obtained is
41 less than \$200, the crime of computer fraud shall be punishable as a Class 1 misdemeanor.

42 **§ 18.2-152.3:1. Transmission of unsolicited bulk electronic mail (spam); penalty.**

43 A. Any person who:

44 1. Uses a computer with the intent to falsify or forge electronic mail transmission information or
45 other routing information in any manner in connection with the transmission of unsolicited bulk
46 electronic mail through or into the computer network of an electronic mail service provider or its
47 subscribers; or

48 2. Knowingly sells, gives, or otherwise distributes or possesses with the intent to sell, give, or
49 distribute software that (i) is primarily designed or produced for the purpose of facilitating or
50 enabling the falsification of electronic mail transmission information or other routing
51 information; (ii) has only limited commercially significant purpose or use other than to facilitate
52 or enable the falsification of electronic mail transmission information or other routing
53 information; or (iii) is marketed by that person acting alone or with another for use in facilitating
54 or enabling the falsification of electronic mail transmission information or other routing
55 information is guilty of a Class 1 misdemeanor.

56 B. A person is guilty of a Class 6 felony if he commits a violation of subsection A and:

57 1. The volume of UBE transmitted exceeded 10,000 attempted recipients in any 24-hour period,
58 100,000 attempted recipients in any 30-day time period, or one million attempted recipients in
59 any one-year time period; or

60 2. The revenue generated from a specific UBE transmission exceeded \$1,000 or the total revenue
61 generated from all UBE transmitted to any EMSP exceeded \$50,000.

62 C. A person is guilty of a Class 6 felony if he knowingly hires, employs, uses, or permits any
63 minor to assist in the transmission of UBE in violation of subdivision B 1 or subdivision B 2.

64 **§ 18.2-152.4. Computer trespass; penalty.**

65 A. It shall be unlawful for any person, with malicious intent, to:

66 1. Temporarily or permanently remove, halt, or otherwise disable any computer information or
67 computer software from a computer;

68 2. Cause a computer to malfunction, regardless of how long the malfunction persists;

69 3. Alter, damage, destroy, disable or erase any computer information or computer software;

70 4. Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;

71 5. Cause physical injury to the property of another;

72 6. Make or cause to be made an unauthorized copy, in any form, including, but not limited to,
73 any printed or electronic form of computer information or computer software residing in,
74 communicated by, or produced by a computer;

75 7. [Repealed].

76 8. Install computer software on the computer of another, without the authorization of the owner;

77 9. Disable or disrupt the ability of a computer to share or transmit its computer information to
78 other computers or to any related computer equipment or devices, including, but not limited to,
79 printers, scanners, or fax machines

80 through the direct or indirect use of a computer.

81 B. It shall be unlawful for any person to directly use a computer with the intent to maliciously
82 obtain any computer information without authority.

83 C. Any person who violates this section shall be guilty of computer trespass, which offense
84 shall be punishable as a Class 1 misdemeanor. If there is damage to the property of another
85 valued at \$1,000 or more caused by such person's act in violation of this section, the offense shall
86 be punishable as a Class 6 felony.

87 D. Nothing in this section shall be construed to interfere with or prohibit terms or conditions in a
88 contract or license related to computers, computer information, computer operations, computer
89 services, or computer software or to create any liability by reason of terms or conditions adopted
90 by, or technical measures implemented by, a Virginia-based electronic mail service provider to
91 prevent the transmission of unsolicited electronic mail in violation of this article. Nothing in this
92 section shall be construed to prohibit the monitoring of computer usage of, the otherwise lawful
93 copying of data of, or the denial of computer or Internet access to a minor by a parent or legal
94 guardian of the minor.

§ 18.2-152.5. Computer invasion of privacy.

A. A person is guilty of the crime of computer invasion of privacy when he uses a computer and intentionally examines without authority any employment, salary, credit, financial or identifying information, as defined in subdivisions (iii) through (xiii) of subsection C of § 18.2-186.3, relating to any other person. "Examination" under this section requires the offender to review the information relating to any other person after the time at which the offender knows or should know that he is without authority to view the information displayed.

B. The crime of computer invasion of privacy shall be punishable as a Class 1 misdemeanor.

C. Any person who violates this section after having been previously convicted of a violation of this section or any substantially similar laws of any other state or of the United States shall be guilty of a Class 6 felony.

D. Any person who violates this section and sells or distributes such information to another shall be guilty of a Class 6 felony.

E. Any person who violates this section and uses such information in the commission of another crime shall be guilty of a Class 6 felony.

F. This section shall not apply to any person collecting information that is reasonably needed to (1) protect the security of a computer, computer service, or computer business, or to facilitate diagnostics or repair in connection with such computer, computer service, or computer business, or (2) determine whether the computer use is licensed or authorized to use specific computer software or a specific computer service.

§ 18.2-152.5:1. Using a computer to gather identifying information.

A. It shall be unlawful for any person to use a computer to fraudulently obtain, fraudulently access, or fraudulently record identifying information, as defined in subdivisions (iii) through (xiii) of subsection C of § 18.2-186.3. Any person who violates this section shall be guilty of a Class 6 felony.

B. Any person who violates this section and sells or distributes such information to another shall be guilty of a Class 5 felony.

C. Any person who violates this section and uses such information in the commission of another crime shall be guilty of a Class 5 felony.

§ 18.2-152.6. Theft of computer services.

Any person who willfully obtains computer services without authority, shall be guilty of the crime of theft of computer services, which shall be punishable as a Class 1 misdemeanor. If the theft of computer services is valued at \$2,500 or more, he is guilty of a Class 6 felony.

131 **§ 18.2-152.6:1. Use of a computer to circumvent computer security measures.**

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133 A. Any person who uses a computer to circumvent a security measure that controls access to a
134 computer, including but not limited to passwords, firewalls, or access codes, and does so without
135 the authorization of the owner of such computer, is guilty of a Class 1 misdemeanor.

136
137 B. Any person who violates this section after having been previously convicted of a violation of
138 this section or any substantially similar laws of any other state or of the United States shall be
139 guilty of a Class 6 felony.

140
141 C. Any person who violates this section in the commission of a felony shall be guilty of a Class
142 6 felony.

143
144 **§ 18.2-152.7. Personal trespass by computer.**

145 A. A person is guilty of the crime of personal trespass by computer when he uses a computer to
146 cause physical injury to an individual.

147 B. If committed maliciously, the crime of personal trespass by computer shall be punishable as a
148 Class 3 felony. If such act is done unlawfully but not maliciously, the crime of personal trespass
149 by computer shall be punishable as a Class 6 felony.

150 **§ 18.2-152.7:1. Harassment by computer; penalty.**

151 If any person, with the intent to coerce, intimidate, or harass any person, shall use a computer to
152 communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any
153 suggestion or proposal of an obscene nature, or threaten any illegal or immoral act, he shall be
154 guilty of a Class 1 misdemeanor.

155 **§ 18.2-152.8. Property capable of embezzlement.**

156 For purposes of §§ 18.2-95, 18.2-96, 18.2-108 and 18.2-111, personal property subject to
157 embezzlement shall include:

158 1. Computers;

159 2. Financial instruments, computer information, computer programs, computer software and all
160 other personal property regardless of whether they are:

161 a. Tangible or intangible;

162 b. In a format readable by humans or by a computer;

163 c. In transit between computers or within a computer network or between any devices which
164 comprise a computer; or

165 d. Located on any paper or in any device on which it is stored by a computer or by a human; and
166 3. Computer services.

167 **§ 18.2-152.9. Limitation of prosecution.**

168 This section is being repealed; the language will be inserted into Title 19.2, in the existing §
169 19.2-250.

170 **§ 18.2-152.10. Venue for prosecution.**

171 This section is being repealed; the language will be inserted into Title 19.2 as a new statute, §
172 19.2-250.

173 **§ 18.2-152.14. Computer as instrument of forgery.**

174 The creation, alteration, or deletion of any computer information contained in any computer
175 which if done on a tangible document or instrument would constitute forgery under Article 1 (§
176 [18.2-168](#) et seq.) of Chapter 6 of this Title, will also be deemed to be forgery. The absence of a
177 tangible writing directly created or altered by the offender shall not be a defense to any crime set
178 forth in Article 1 (§ [18.2-168](#) et seq.) of Chapter 6 of this Title if a creation, alteration, or
179 deletion of computer information was involved in lieu of a tangible document or instrument.

180 **§ 18.2-152.16. Additional penalties.**

181 In addition to any other penalties specified by statute, any person convicted of a felony under this
182 Act shall be punished by a mandatory minimum fine of \$1,000.